

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JULIAN A. MILLER,

Plaintiff,

v.

STANLEY TAYLOR, individually and in  
his official capacity as Commissioner of the  
Delaware Department of Correction;  
THOMAS CARROLL, individually and in  
his official capacity as Warden of the  
Delaware Correctional Center at Smyrna;  
DR. ALIE, individually and in her official  
capacity as Medical Director at DCC  
Smyrna; IHUOMA CHUKS, individually  
and in her official capacity as a Nurse at  
DCC Smyrna; and First Correctional  
Medical,

Defendants.

C.A. No. 04-1367-KAJ

**PLAINTIFF JULIAN MILLER'S MOTION FOR LEAVE  
TO FILE A THIRD AMENDED COMPLAINT**

Plaintiff Julian A. Miller (hereinafter referred to as "Plaintiff Miller") hereby moves to amend his complaint to correctly name Nurse Ihuoma Chuks as a defendant. Attached are the Second Amended Complaint (attached as Exhibit A), the proposed Third Amended Complaint (attached as Exhibit B), and a red-lined comparison of these documents (attached as Exhibit C). The Third Amended Complaint does not present any prejudice to defendants.

Plaintiff Miller respectfully requests that the Court, upon granting this motion, issue an order to the United States Marshal Service to serve Plaintiff Miller's September 18, 2006 filings and a "U.S. Marshal-285" form to Nurse Ihuoma Chuks at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977, and to First Correctional Medical, through its Delaware registered agent, The Corporation Trust Company, 1209

Orange Street, Wilmington, DE 19801. Completed forms will be sent to the Clerk's office upon the granting of this motion.

A proposed form of Order is attached as Exhibit D.

Dated: September 18, 2006

FISH & RICHARDSON P.C.

By: /s/ Sean P. Hayes

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*Attorney for Plaintiff*

*Julian A. Miller*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 18, 2006, I electronically filed with the Clerk of Court **PLAINTIFF JULIAN MILLER'S MOTION FOR LEAVE TO FILE A THIRD AMENDED COMPLAINT** using CM/ECF which will send electronic notification of such filing(s), and also by hand delivery to the following Delaware counsel at the addresses below:

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/s/ Sean P. Hayes  
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